IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.685 OF 2005

IN

SUMMARY SUIT NO.2353 OF 2005

Shapoorji Pallonji & Co.Ltd. ...Plaintiff

vs.

Bobby Vijaykar Design Consourtium Pvt.Ltd. ...Defendant.

Mr.Girish Rao i/b. Lex Consultus, for Plaintiff.

Mr.S.M.Raikar, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 13th June, 2006.

P.C.:-

1. The plaintiff has filed the suit for recovery of the amounts which are the prices of the goods which are supplied by the plaintiff to the defendant. The facts that the defendant placed the order with the plaintiff for the goods, that the goods were delivered by the plaintiff to the

defendant, that the payments in part were made against the three invoices are not in dispute. The defence raised is that so far as the invoice dated 19.8.2002 against which the outstanding amount is Rs.5,02,690/- is concerned, the defendant had returned to the plaintiff the goods worth Rs.4,67,280/-, and therefore, the plaintiff cannot demand the amount of Rs.5,02,690/-. But neither the date when the goods were returned to the plaintiff is disclosed nor there is any document produced on record indicating that the goods were returned. On the contrary the material produced on record shows that the plaintiff was consistently demanding the amount by writing letters and the defendant was keeping absolutely quiet about it.

2. So far as the other two invoices are concerned, the defences are of like nature in the sense that there are no documents produced in support of the defences by the defendant. For example the defence against the second invoice dated 12.6.2002 is concerned, the defence is that the amount of Rs.30,000/- was accepted by the plaintiff as full and

final settlement, but there is no document produced on record indicating that the plaintiff has accepted the amount of Rs.30,000/- as full and final settlement. Thus, the defence put up by the defendant is not supported by any document and I find from the material available on record that the defence is not capable of being accepted. As the defence put up by the defendant has no substance, the defendant is not entitled to any leave to defend the suit. The summons for judgment is therefore, granted. As the defendant is denied leave to defend the suit, the suit will have to be decreed. It is accordingly, decreed in terms of the prayer clause of the suit. Refund of court fees as per rules.